(3)

C.S. 1002

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION NO.3577 OF 2004

PETITIONER: Chunnu Tigga, S/o Shri Chuiyan Tigga, Aged about 37 years, Presently posted and working as Sub Inspector, Police Station: Rawghat, District: Kanker, Chhattisgarh.

- **V E R S U S** -

RESPONDENTS:

1). State of Chhattisgarh, Through: The Secretary, Department of Home Affairs, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.

2). Director General of Police, Raipur, Chhattisgarh.

3). Inspector General of Police, Bastar Range, District: Bastar, Jagdalpur Chhattisgarh.

4). Superintendent of Police, District Kanker, Chhattisgarh.

5). Superintendent of Police, District: Bijapur, Chhattisgarh.

P.R. No. 3549/04
Presented by Shri V. R. Tiwari
dated 23-9-04

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23/9/04
Clerk to A. G. Bilaspur

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA.

(S6)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.3577 OF 2004

Chunnu Tigga

Vs.

State of Chhattisgarh & others.

O R D E R

Post for: 7/2/2005

Sd/-
Ag. Chief Justice

7/2/2005

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 3577 OF 2004

Chunnu Tigga

Vs.

State of Chhattisgarh & Others

Shri Sameer Behar, Counsel for the petitioner.
Shri Yashwant Singh, Govt. Advocate for the State.

O R D E R

Heard learned counsel for the parties.

2. The petitioner has preferred the instant petition under Articles 226/227 of the Constitution of India, being aggrieved by the order dated 10-8-2004 (Annexure-P/1) passed by respondent No.3, Inspector General of Police, Bastar Range, Jagdalpur.

3. Briefly stated the facts of the case are that the petitioner is working in Police Department as Sub Inspector in Police Station, Rawghat. It is contended that the petitioner's services were attached from Police Station Rawghat, District Kanker to Police Station, Pairambur, District Bijapur, by respondent No.3/Inspector General of Police, vide order dated 10-8-2004.

4. It is contended that the Chief Secretary of the State of Chhattisgarh had taken a meeting and it has been decided that no officer/employee of the State would be attached from his original place of posting. It is further contended that the General Administration Department, State of

Chhattisgarh, issued a circular dated 4-6-2001 (Annexure-P/2) directing all the departments of the State not to issue any order of attachment of employees, to other places by disturbing them from their parent place of posting. It is also contended that in case such an order of attachment is passed, then it should be cancelled and the concerned employee should be posted at his original place of posting. Annexure-P/2 further contains a caution that if any person is attached, then the attachment order should be cancelled. It is also contended that if in future any person is attached, then disciplinary proceedings may be initiated.

5. Shri Singh, learned Govt. Advocate for the State, submits that return has been filed. It is fairly admitted that the Police Headquarters sought permission vide letter dated 11-11-2004 (Annexure-R/2) for modification of the order to the effect that the Superintendent of Police and Inspector General of Police be given permission within their respective areas for attachment in Police Station to Police Station and Police Line to Police Station.

6. Shri Behar, learned counsel for the petitioner, submits that the State especially the Secretary, has not come out with his own return.

7. A bare perusal of the record, it reveals that respondents No. 1 to 5 have filed return. The return is supported by an affidavit of Sub Divisional Officer (Police), Kondagaon, District Jagdalpur, who has interpreted the Annexure-P/2 in his own way.

8. Be that as it may, the State has not placed any document/order/circular, before this Court regarding the request made by the Police Head Quarters and the same has been acceded by the State, the order of attachment is not sustainable. Learned Govt. Advocate is not in a position to defend it.

9. Having considered the facts and circumstances of the case and material on record, this Court is of the opinion that the attachment order dated 10-8-2004 (Annexure-P/1), issued by respondent No.3, Inspector General of Police, Bastar Range, Jagdalpur, in favour of the petitioner is concerned, can be set aside. Accordingly, it is set aside.

10. With the aforesaid observations the petition stands disposed of.

11. Consequently, M.W.P.No.4022/04 and I.A.No. 7480/04 also stand disposed of.

Sd/-
Ag. Chief Justice

7 /01/2005

Gowri